HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.18915 of 1998

Dated 7th Day of March, 2007

Between:

Somisetti Mahalakshmi Rao
and another .. Petitioners

And

The Agent to the Government and
District Collector, Kakinada
East Godavari
and two others ..
Respondents

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O R D E R:

This writ petition is filed to quash the judgment, dated 31.10.1995 delivered by the 1st respondent in C.M.A.No.4 of 1994.

The brief facts of the case are that one Sarva Rao gifted away an extent of Ac.2.00 cents of land through a registered gift deed dated11.6.1951 to the 2nd petitioner, who is the mother of the 1st petitioner. The 1st petitioner is cultivating the land in question on the basis of profit sharing and he has been paying taxes to the Government. The 2nd respondent-Special Deputy Tahsildar filed a complaint against the petitioners and the 3rd respondent for resumption of the land before the Deputy Collector, who, by his order dated 30.12.1993, directed the Mandal Revenue Officer to take possession of the land in question for assignment to eligible scheduled tribes. Now, the petitioners' grievance is that when the 1st petitioner, aggrieved by the order of the Deputy Collector, preferred C.M.A.No.4 of 1994, the 1st respondent-Agent to the government, by his judgment dated 31.10.1995, dismissed the appeal without affording any opportunity to them to put further their grievance. In pursuance of this judgment, the respondents are trying to interfere with the peaceful possession and enjoyment of the petitioners over the land in question.

Heard the learned counsel for the petitioners.

This Court, on 28.7.1998, while ordering Rule Nisi, granted interim suspension of all further proceedings. In spite of the fact that

notices were served on the respondents, they have not chosen to file any counter

Having regard to the fact that the appellate authority without issuing any notice or affording any opportunity to the petitioners or their counsel, passed the judgment dated 31.10.1995 and the same is not controverted by the respondents, this Court is of the view that the judgment impugned is liable to be set aside.

In the result, the writ petition is allowed setting aside the judgment, dated 31.10.1995 in C.M.A.No.4 of 1994 delivered by the 1st respondent. However, the 1st respondent is hereby directed to issue a notice to the petitioners to appear on a day to be fixed by him and after hearing them, shall pass appropriate orders in accordance with law. No costs.

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07.03.2007

bcj